

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Eneida Amparan,

No. C 07-04498 JW

Plaintiff,

**SCHEDULING ORDER RE: CLASS  
DISCOVERY**

v.

Plaza Home Mortgage, Inc.,

Defendant.

Upon filing, this case was scheduled for a case management conference on March 3, 2008.

Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement. Based on their joint submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time.

Accordingly, **the case management conference is vacated.** The parties are ordered to comply with the following schedule:<sup>1</sup>

**CASE SCHEDULE**

<b>Close of Class Discovery</b>	<b>July 21, 2008</b>
<b>Hearing on Motion for Class Certification</b>	<b>September 22, 2008 at 9 a.m.</b>

<sup>1</sup> The parties have agreed and the Court adopts a bifurcated discovery plan between class and merits discovery.

1 The Court will set a further case management conference in its Order Re: Plaintiff's Motion  
2 for Class Certification to determine a schedule for the remainder of the case.

3 None of the dates set in this Order may be changed without an order of the Court made after  
4 a motion is filed pursuant to the Civil Local Rules of Court.

5 **Standing Order to Lodge Printed Copy of "ECF" Papers**

6 1. In all cases, including cases covered by the Electronic Case Filing System of  
7 the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in  
8 addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a  
9 printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the  
10 Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case  
11 number and be delivered on or before the close of the next court day following the day the papers  
12 are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

13 **Compliance with Discovery Plan and Reference to Magistrate Judge**

14 2. The Court adopts the Discovery Plan proposed by the parties in their Joint  
15 Case Management Statement. The parties are ordered to comply with the discovery plan. Any  
16 disputes with respect to the implementation of the discovery plan and all disclosure or discovery  
17 disputes are referred to the assigned Magistrate Judge. In addition, any disputes pertaining to  
18 service or joinder of parties or claims are referred to the assigned Magistrate Judge.

19 **Document Management During Pretrial Discovery and Electronic Evidence Presentation**

20 3. This Court has available a digital and video electronic evidence presentation  
21 system. Before commencement of pretrial discovery, the parties are ordered to familiarize  
22 themselves with the system, and to meet and confer about whether the case will involve voluminous  
23 documentary. If so, as the parties identify documentary material which is likely to be used as trial  
24 exhibits, the parties are ordered to electronically store these materials in a fashion which will  
25 facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-  
26 2(b) requires sequential numbering of exhibits during depositions and that numbering must be  
27 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked  
28

for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999; Defendant #2: 300,000-500,000).

#### **Disclosure of Expert Witnesses**

4. Any party wishing to present expert witness testimony with respect to a claim or a defense shall lodge with the Court and serve on all other parties the name, address, qualifications, résumé and a written report which complies with Fed.R.Civ.P. 26(a)(2)(B) **63 days before close of discovery**. Expert witness disclosure must be made with respect to a person who is either (a) specially retained or specially employed to provide expert testimony pursuant to Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to provide expert opinion testimony.

5. The parties are also required to lodge any supplemental reports to which any expert will testify at trial in accordance with Fed.R.Civ.P. 26(a)(2)(B).

6. Any party objecting to the qualifications or proposed testimony of an expert must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND MOTION DAY) at 9:00 a.m.** and preferably before or on the same day as the discovery cutoff date at 9:00 a.m.

#### **Rebuttal Expert Witnesses**

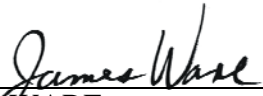
7. If the testimony of the expert is intended solely to contradict or rebut opinion testimony on the same subject matter identified by another party, the party proffering a rebuttal expert shall make the disclosures required by Fed.R.Civ.P. 26(a)(2)(B), no later than **49 days prior to discovery cutoff**.

#### **Limitation on Testimony by Expert Witnesses**

8. Unless the parties enter into a written stipulation otherwise, upon timely objection, an expert witness shall be precluded from testifying about any actions or opinions not

disclosed prior to the expert's deposition. This is to ensure that all factual material upon which expert opinion may be based and all tests and reports are completed prior to the expert deposition. Unless application is made prior to the close of expert discovery, each party will be limited to calling only one expert witness in each discipline involved in the case.

Dated: February 27, 2008

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 David M. Arbogast david@spiromoss.com  
Ira Spiro Ira@SpiroMoss.com  
3 Jonathan Shub jshub@seegerweiss.com  
Mark Bale mbale@thompsonalessio.com  
4 Michael C Eyerly eyerly@kbla.com  
Patrick DeBlase deblase@kbla.com  
5 Paul R. Kiesel Kiesel@kbla.com

6  
7  
8 **Dated: February 27, 2008**

**Richard W. Wieking, Clerk**

9  
10 **By: /s/ JW Chambers**  
11 **Elizabeth Garcia**  
12 **Courtroom Deputy**  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**United States District Court**  
For the Northern District of California